IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.10748 of 1999

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Between:

Harjinder Singh S/o. Sohan Singh,
R/o village Post Sohan, District Gurdaspur, Punjab State.

..... PETITIONER

AND

1 Union of India, rep. by Secretary, Ministry of Home Affairs, New Delhi.
2 Deputy Inspector General, CISF, South Zone, Ministry of Home Affairs, Rajaji Bhavan, B Block, Basanth Nagar, Chennai.
3 Commandant, CISF Unit, BHEL, Ramachandrapuram, Hyderabad.
4 Inspector, CISF (Enquiry Officer) BHEL, Ramachandrapuram, Hyderabad.
5 Y.P. Reddy, Constable, (Previously at H.I.L.Udyog Mandal, Kerala State, Now at Chennai Port Trust, Chennai.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Certiorari calling for the records leading upto the impugned proceedings No.V-11014/04/99/L&R(SZ)/2548; dt: 30.5.99 of the 2nd Respondent and proceedings No. V-15014/CISF/BHEL/Ad.V/Maj.3/98/6587; dt: 10.12.1998 of the 3rd Respondent and quash the same as being illegal, unjust and oppose to the principles of natural justice and pass such other or further orders.

Counsel for the Petitioner: Mr. A.KRISHNA MURTHY

Counsel for the Respondents 1 to 4: Mr.P.PHALGUNA RAO,Addl.SC for

Central Government

Counsel for Respondent No.5: None appeared

The Court made the following :

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ORAL ORDER:

This writ petition is filed challenging the final order dated 10-12-1998 passed by the 3rd respondent in the disciplinary proceedings initiated against the petitioner, which was confirmed by the appellate authority – 2nd respondent - in its order dated 30-5-1999.

When the petitioner was working as a Constable in CISF unit at BHEL, Hyderabad he was issued with charge sheet alleging certain irregularities. After conducting a detailed inquiry, the disciplinary authority imposed the punishment of removal from service. The petitioner, aggrieved by the same, preferred an appeal, which was also rejected. Challenging the same, the present writ petition is filed.

Heard both sides and perused the entire material on record.

The charges do not disclose that the petitioner misbehaved or misconducted while he was on duty. What all the charges reveal is that when a function was going on at Dr.Ambedkar Stadium, BHEL Township, the petitioner, in the musical night, danced in the presence of VIPs. According to the petitioner, he has not created any nuisance or used any abusive language against the officers or dressed indecently.

Under similar circumstances, against another Constable (Mastan Singh), who was also charged with the same misconduct i.e. dancing in the presence of VIPs in the musical night programme and disobeyed the lawful orders of the superiors during musical night, only a punishment of reduction of pay by one stage for a period of two years was ordered by the disciplinary authority. However, in that case, the appellate authority enhanced the punishment to that of removal from service. The same was

challenged in W.P.No.10832 of 1999 and this Court by an Order dated 2-9-2003 disposed of the writ petition directing the appellate authority to reconsider the matter and impose any punishment other than removal from service. The appellate authority took up the matter and reconsidered the same and by its order dated 6-11-2003 reduced the pay by one incremental stage from Rs.3125/- to Rs.3050/- in the time scale of Rs.3050-75-3950-80-4590 for a period of one year.

I have gone through the orders passed by the disciplinary authority as well as the appellate authority. The incident had taken place in a musical dance where VIPs and others witnessing the programme. Admittedly, the petitioner was not on official duty. May be, he danced to the tune of the music at that particular moment along with other persons. But, absolutely there is no evidence to show that the petitioner created any panic or nuisance worth the name. What all the statements recorded by the authorities would show that the petitioner along with his accomplice (petitioner in W.P.No.10832 of 1999) were dancing and shouting inside the gallery.

Assuming that the charges are proved, the punishment imposed is shockingly disproportionate to that of the misconduct alleged against the petitioner. Therefore, I hold that the punishment imposed against the petitioner is disproportionate to that of the misconduct alleged against him. Accordingly, the impugned orders are set aside. However, in view of the fact that this Court cannot substitute its decision in the place of the decision of the disciplinary authority, it is appropriate to remit the matter back for reconsideration by the disciplinary authority and it may impose any lesser punishment other than that of removal from service taking into consideration the order dated 6-11-2003 passed by the Deputy Inspector General/SZ, CISF, New Delhi in respect of the similarly placed person i.e. petitioner in W.P.No.10832 of 1999.

The Writ Petition is allowed to the extent indicated above. There shall be no order as to costs.

3rd September,2004

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Third day of September Two thousand and Four only.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Ministry of Home Affairs, Union of India, New Delhi.
2 Deputy Inspector General, CISF, South Zone, Ministry of Home Affairs, Rajaji Bhavan, B Block, Basanth Nagar, Chennai.
3 Commandant, CISF Unit, BHEL, Ramachandrapuram, Hyderabad.
4 Inspector, CISF (Enquiry Officer) BHEL, Ramachandrapuram, Hyderabad.
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